

REMARKS

Upon entry of this amendment, claims 1-3 and 18-22 are pending. Claims 1-3 have been amended, claims 4-17 have been cancelled, and new claims 18-22 have been added. The application is believed to be in condition for allowance. Reconsideration is respectfully requested.

In the Office Action, the Examiner rejected claims 1 -17 under 35 U.S.C. §102(b) as being anticipated by Universal News Services, Limited 1999, "Ambalink Launches Secure Online Shopping in the UK" ("the Ambalink article."). Claims 4-17 have been cancelled, thus rendering moot the rejection of those claims.

Claim 1 has been amended to recite, *inter alia*:

“... a fixed common user interface having secondary interfaces for gathering/inputting and outputting information from at least one of said plurality of users;
said secondary input interfaces operable to structure data according to a common data format and operating rule for creating, storing, and transaction of data used in the system;
a central clearinghouse for authorizing and authenticating said users, said central clearinghouse being operable to maintain user identification records and control access for each of said plurality of users; and
a common market permitting the users employing the system to advertise and locate propositions of interest and to connect to one another using the system; and
wherein all said users are linked to one another and the central clearinghouse and the common market by way of a virtual private network.”

The Ambalink article does not anticipate claim 1 because it fails to disclose, either expressly or inherently, “a fixed common user interface having secondary interfaces for gathering/inputting and outputting information ... said secondary input interfaces operable to structure data according to a common data format and operating rule for creating, storing and transaction of data used in the system;” as required by claim 1. Rather, as stated in the prior response, the Ambalink system broadly discloses Web-based shopping mall that provides users with an electronic wallet system for making payments. (See the Ambalink article, p.1, lines 3, 20-21; p. 2, lines 7-15). The Ambalink article provides no details regarding how the system is implemented, and, contrary to the examiner’s assertion in the current Office Action, (see May

19, 2005 Office Action, pg. 4, line 3), the Ambalink article does not *inherently* disclose these features either.

The Court of Appeals for the Federal Circuit has stated that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *See in re Rijckaert*, 9 F.3d 1531 (Fed. Cir. 1993). Further, “[t]o establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’” *See In re Robertson*, 169 F.3d 743, 754 (Fed. Cir. 1999).

Additionally, “[i]n relying on a theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *See ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

In the May 19, 2005 Office Action, the examiner merely states that the above noted features are disclosed in the Ambalink, but does not provide the basis in fact and/or technical reasoning to reasonably support the determination of inherency. There is no such basis or reasoning that can reasonably be drawn from a review of the Ambalink article. A system as described in the Ambalink article can be constructed without including the features in Applicant's claim 1. Therefore, claim 1 does not necessarily flow from the teachings of the prior art.

Additionally, the Ambalink article fails to disclose, either expressly or inherently, “... a central clearinghouse for authorizing and authenticating said users, said central clearinghouse being operable to maintain user identification records and control access for each of said plurality of users; and a common market permitting the users employing the system to advertise and locate propositions of interest and to connect to one another using the system ... wherein all said users are linked to one another and the central clearinghouse and the common market by way of a virtual private network,” as further required by claim 1. Rather, the Ambalink article discloses a portal site that is accessible to consumers via the World Wide Web. (*See the*

Ambalink article, pg. 1, second paragraph). Thus, the Ambalink article does not disclose "users ... linked to one another ... by way of a virtual private network," as required by claim 1.

Thus, because the Ambalink article fails to disclose, either expressly or inherently, every limitation of independent claim 1, applicant requests that the 35 U.S.C. §102(b) rejection of that claim be withdrawn, and that claim 1 be allowed. With respect to claims 2 and 3, which depend from claim 1 and which recite additional features of the invention, applicant requests that the 35 U.S.C. §102(b) rejection of these claims be withdrawn and that these claims be allowed for the same reasons as identified with respect to claim 1.

New Claims 18-22

Independent claim 18 recites:

"
wherein said means for gathering and structuring data is included in a secondary interface;
wherein said means for gathering and structuring data further uses a common data format; and
wherein said common data format determines a design of the secondary interface and also is an operating rule for creating, storing and processing data, in the form of intelligent database objects."

New claims 18-22 are patentable over the Ambalink article, because the Ambalink article fails to disclose, either expressly or inherently, "...wherein said means for gathering and structuring data is included in a secondary interface; wherein said means for gathering and structuring data further uses a common data format; and wherein said common data format determines a design of the secondary interface and also is an operating rule for creating, storing and processing data, in the form of intelligent database objects," as required by claim 18. Rather, as noted above in relation to claim 1, the Ambalink system broadly discloses a Web-based shopping mall that provides users with an electronic wallet system for making payments. (See the Ambalink article, p.1, lines 3, 20-21; p. 2, lines 7-15). The Ambalink article provides no details regarding how the system handles data that is gathered, particularly in how the gathered data is structured, stored or processed, including whether gathered data is structured using a common data format. Additionally, there is no disclosure in the Ambalink article that would reasonably lead one of ordinary skill in the art that the Ambalink system incorporates such

features, or that such features are "necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *See In re Robertson*, 169 F.3d at 754.


Thus, new independent claim 18 is patentable over the Ambalink article. New claims 19-22 depend from claim 18 and recite additional features of the invention. Thus, claims 19-22 are patentable over the Ambalink article for the same reasons as stated for claim 18.

In view of the foregoing amendments and remarks, Applicant submits that this application is in condition for allowance. Early notification to that effect is respectfully requested.

No fee is believed due with this submission, however, should any fees be required, the Commissioner for Patents is hereby authorized to charge any such required fees to deposit account 50-2061.

Respectfully submitted,

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Jeffrey M. Chamberlain, Reg. No.: 55,044
Attorney for Applicant

DUANE MORRIS LLP
P.O. Box 5203
Princeton, NJ 08543-5203
(609) 631-2491 (Telephone)
(609) 919-2401 (Fax)